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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,890	12/02/2003	Steven E. Walak	1001.1632101	3380
28075 7590 01/31/2008 CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420				
EXAMINER				
OSINSKI, BRADLEY JAMES				
ART UNIT		PAPER NUMBER		
4111				
MAIL DATE		DELIVERY MODE		
01/31/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/725,890

Applicant(s)

WALAK, STEVEN E.

Examiner

BRADLEY J. OSINSKI

Art Unit

4111

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22, 25-70 and 73-75 is/are pending in the application.
- 4a) Of the above claim(s) 28-56 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 74 and 75 is/are allowed.
- 6) ☒ Claim(s) 1-22, 25-27, 57-70, and 73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I, claims 1-27 and 57-73 in the reply filed on 12/26/2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1-9, 11, 13, 15, 16, 18, 19-21 25-26, 57, 59, 61, 63-64, 66-68, and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ren et al (US 6,045,547), and further in view of Viera (US 6,039,699) for reasons of record set forth in the last office action dated 09-27-07 in numbered paragraph 6.
4. Claims 12, 17, 60, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over references 1 and 2 as applied to claims 1 and 57 above, and further in view of O'Brien et al (WO 99/58184) for reasons of record set forth in the last office action dated 09-27-07 in numbered paragraph 7. .
5. Claims 14 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over references 1 and 2 as applied to claims 1 and 57 above, and further in view

of Rooney et al (US 6,306,105 B1) for reasons of record set forth in the last office action dated 09-27-07 in numbered paragraph 8.

Response to Amendment

6. Acknowledgement is made of the Applicant's amendment received 12/26/2007

Response to Arguments

7. Applicant's arguments filed 12/26/2007 have been fully considered but they are not persuasive. While the examiner agrees that Ren et al in view of Viera does not teach removing a segment of the metallic outer portion to expose a segment of the metallic inner portion, the claims as presently recited are drawn to a product-by-process (claims 1-27) or product (claims 57-73) with a process limitation, outer portion being removed. MPEP section 2113 [R-1] with regards to product-by-process claims explicitly states that "The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In the instance case, the product of the product-by-process claim is structurally indistinguishable from a product of the prior art, namely Ren et al and Viera. Thus the burden is on the Applicant to show an unobvious difference. MPEP section 2113 further states, "Once the examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to applicant to come forward with evidence establishing an unobvious difference between the

claimed product and the prior art.”. Note further that, **independent claim 73 does not require positively an outer portion being removed to expose an inner portion**. Thus the rejections as stated above and in the original office action mailed 9/27/2007 stand.

Allowable Subject Matter

8. Claims 74 and 75 are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **BRADLEY J. OSINSKI** whose telephone number is (571)270-3640. The examiner can normally be reached on M-Th 8AM-5PM.

Art Unit: 4111

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Yao can be reached on (571)272-1224. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. J. O./
Examiner, Art Unit 4111

/Sam Chuan C. Yao/
Supervisory Patent Examiner, Art Unit 4111